

1 probably take away everything except our home.

2 BY MR. ROMNEY:

3 Q When you submitted the T-band applications or the
4 applications in question here or any of the applications
5 that you've ever submitted to the FCC, let's make it that
6 broad, at any time did you think you were doing anything
7 illegal?

8 A No, I did not.

9 Q Did you ever tell anybody, Ms. Lutz, any of the
10 Sumpters, Ms. Hill, anybody, did you --

11 JUDGE STEINBERG: When did your offer of proof
12 end?

13 MR. ROMNEY: That was done.

14 MS. LANCASTER: When? I'd like to know when.

15 JUDGE STEINBERG: When?

16 MR. ROMNEY: When I started that question about
17 whether or not he thought he was doing anything illegal.

18 JUDGE STEINBERG: Okay. How about the loss of
19 business, the testimony about loss of business would be
20 devastating?

21 MR. ROMNEY: Yes, sir. That was part of it.

22 JUDGE STEINBERG: Okay. That we'll make part of
23 the record in this case because that is relevant under
24 Commission case law in the he credibility line, because the
25 financial impact on the individuals testifying, you know,

1 the interests of the individual who is testifying for an
2 answer otherwise is always relevant to a credibility
3 determination. I don't have to tell you.

4 And so that is relevant to our inquiry, so the
5 offer of proof won't include the testimony about the impact
6 to Mr. and Mrs. Brasher personally, but will end before
7 then.

8 Is that acceptable to everybody?

9 MR. ROMNEY: Well, the financial impact to DLB.

10 JUDGE STEINBERG: Well, that doesn't go to the --
11 okay.

12 MR. PEDIGO: As a stockholder.

13 MS. LANCASTER: Your Honor, I would object. That
14 doesn't go to the credibility of this witness.

15 JUDGE STEINBERG: You don't want it to be part of
16 the offer of proof? We'll make it part of the offer of the
17 offer of proof. I don't want to argue with you.

18 MR. ROMNEY: I want it to be part of the case. If
19 she wants it part of the offer of proof --

20 (Pause.)

21 MS. LANCASTER: Your Honor, it is our position
22 that the only reason any of this financial testimony would
23 be at all relevant would be as it relates to your
24 determination of a forfeiture, if any. And that is our
25 position, that that is the only way it should come in at

1 all, that is the only way it would be relevant.

2 JUDGE STEINBERG: I want to leave my options open,
3 but you are absolutely incorrect. You are absolutely
4 incorrect. And I was incorrect in my ruling, in part of my
5 ruling, now that I think about it, and we will forget about
6 the offer of proof and all that stuff will come in as
7 testimony and not an offer of proof. Because I want to
8 leave my options open when I write my decision because I can
9 see where I could use this information if I want to go one
10 way.

11 If I want to go the other way, I might not be able
12 to. I want to leave my options open. But if you read the
13 FCC case law, in terms of -- well, you can read it. I'm not
14 going to tell you. It will be a surprise when you read it.
15 And maybe you won't. Maybe you'll never find it. It's kind
16 of esoteric. But, okay.

17 So I'm reversing my earlier ruling and all that
18 offer of proof stuff is no longer an offer of proof but is
19 accepted in this proceeding as testimony. And that's the
20 impact on everybody if DLB loses its licenses. And you can
21 cross-examine or redirect or whatever on all of that.

22 MS. LANCASTER: I just want to make sure that
23 I objected originally to the relevancy of this information
24 and I understood that you sustained that objection.

25 JUDGE STEINBERG: Yes. Right. And I was wrong in

1 terms of -- the impact on the public, I'm correct on. The
2 Commission has not determined that to be a factor that we
3 would consider in a case like this. The information -- and
4 I don't intent to sandbag anybody on this, but the
5 information that we've adduced is helpful to me in my
6 determination of the credibility of the various witnesses in
7 this proceeding.

8 Of course, one of the factors that can be
9 considered when you're considering the credibility of the
10 witness is the financial impact that this would have on the
11 individual testifying if a decision was to go one way or the
12 other way.

13 I can't make it any clearer than that. And if the
14 two Mr. Brashers would leave the room, I could explain it to
15 you in further detail.

16 MR. ROMNEY: I understand, Your Honor.
17 I understand what you're saying.

18 JUDGE STEINBERG: Okay. Does anybody need them to
19 leave the room to have me explain it further?

20 MR. PEDIGO: Not at this time. While he's on the
21 stand, I don't think --

22 JUDGE STEINBERG: Okay. Why don't you continue?

23 MR. ROMNEY: Thank you.

24 BY MR. ROMNEY:

25 Q Did you ever tell Ms. Lutz that her filling out an

1 application to be used with the DLB T-band system was in any
2 way illegal?

3 A I did not.

4 Q Did you ever tell anybody that you were doing what
5 you thought to be illegal?

6 A I did not.

7 Q Have you tried to be completely candid with the
8 FCC?

9 A Yes, sir.

10 Q Have you provided the FCC with everything you
11 understood that they wanted to have from you?

12 A Yes, sir.

13 MR. ROMNEY: Pass the witness, Your Honor.

14 JUDGE STEINBERG: Do you want to take a little
15 break or are you ready to go forward?

16 MS. LANCASTER: I'm ready to go forward,
17 I believe.

18 MR. PEDIGO: We had a couple of questions.

19 JUDGE STEINBERG: Oh, I'm sorry.

20 MR. PEDIGO: Maybe after we question him, that
21 might be a more appropriate time to take a break.

22 JUDGE STEINBERG: No, you're absolutely right.

23 MR. PEDIGO: Don't forget us.

24 JUDGE STEINBERG: No, I kind of thought that you
25 were going along with him, so I apologize for the oversight.

1 Nothing malicious intended.

2 CROSS-EXAMINATION

3 BY MR. PEDIGO:

4 Q Good afternoon, Mr. Brasher. I want to revisit
5 some of your testimony. I think the issue with the T-band
6 applications involved the date generally June 1996.

7 Do you recall that?

8 A Yes, sir.

9 Q Okay. And do you also recall that in the summer
10 of 1996 that your daughter-in-law, Diane Brasher, was not
11 working -- I don't think was working at all at the company,
12 in fact, she had surgery and then took the summer off, as
13 she typically did, to work on PTA matters.

14 Do you recall that?

15 A Yes, sir.

16 Q And could you tell us again exactly when your son,
17 Dave Brasher, first began to work at DLB Enterprises on a
18 full-time basis?

19 A It was the late spring or early summer of 1997.

20 Q There were depositions taken in this proceeding in
21 Dallas several weeks ago, November, December timeframe, year
22 2000.

23 A Yes, sir.

24 Q And I know you were in attendance at some of those
25 depositions. In fact, did you have the opportunity to

1 attend each one of those depositions?

2 A I did.

3 Q So at least from that standpoint, I certainly
4 don't want to ask anything that you discussed with your
5 attorneys, but you've had the opportunity firsthand to see
6 the Sumpters give their explanation --

7 MS. LANCASTER: Your Honor, I'm going to object.
8 If he has a question, I would ask that he ask it.

9 JUDGE STEINBERG: That what?

10 MS. LANCASTER: He needs to ask a question. He's
11 giving --

12 JUDGE STEINBERG: This is, I think, just set up.
13 We'll see what the question is.

14 BY MR. PEDIGO:

15 Q As I was saying, Mr. Brasher, you do recall having
16 the opportunity to observe the Sumpters and Ms. Lutz talk
17 about the application process in June of 1996.

18 A Yes, sir.

19 Q And do you recall in any of those deposition
20 sessions whether any of those witnesses claimed that Diane
21 or Dave Brasher played any role in the assembling of
22 information for their applications?

23 MS. LANCASTER: Objection. Hearsay.

24 JUDGE STEINBERG: These might be better questions
25 to ask the Sumpters. I mean, I think I know what the answer

1 is going to be and if the answer is not consistent with what
2 they testified to in their depositions, you can hit them
3 with the depositions. I think it would be better to
4 approach it that way, rather than to say, okay, you attended
5 Norma's deposition, did Norma bad mouth David.

6 MR. PEDIGO: Well, I think, Your Honor, just a
7 little latitude on here, I could get through this.

8 JUDGE STEINBERG: Okay.

9 BY MR. PEDIGO:

10 Q Is it your recollection that all the information
11 personally that you recall or the deposition testimony --

12 MS. LANCASTER: Objection. Leading, Your Honor.

13 JUDGE STEINBERG: This is not his witness.

14 I mean, he has theoretically an adversarial relationship and
15 he can do that.

16 MR. PEDIGO: And, really, after two and a half
17 days of watching paint dry, I would think we'd get a little
18 latitude here.

19 JUDGE STEINBERG: Okay. Talk to me.

20 MR. PEDIGO: All right.

21 BY MR. PEDIGO:

22 Q So is it your recollection, then, that there has
23 been no testimony or evidence introduced in this proceeding
24 so far that indicates Dave or Diane Brasher played any role
25 in putting in the applications on behalf of the Sumpters or

1 Ms. Lutz?

2 MS. LANCASTER: Objection. Assumes facts not in
3 evidence.

4 JUDGE STEINBERG: What facts?

5 MS. LANCASTER: He's saying it's his recollection
6 that there has been no testimony and there is nothing in
7 the record about other testimony, all the deposition
8 testimony.

9 JUDGE STEINBERG: Well, let me see if I can short
10 circuit this.

11 Did David Brasher, your son, to the best of your
12 knowledge, have any role in putting together the
13 applications of the Sumpters or Jennifer Hill or Ms. Lutz?

14 THE WITNESS: No.

15 JUDGE STEINBERG: Did Diane Brasher? Same
16 question with respect to Diane Brasher.

17 MS. LANCASTER: None for Diane.

18 JUDGE STEINBERG: It was all you.

19 MS. LANCASTER: All me.

20 JUDGE STEINBERG: Okay.

21 BY MR. PEDIGO:

22 Q I just want to go the next step further. Nobody
23 has even alleged that they had a role, to include the
24 Sumpters.

25 JUDGE STEINBERG: To the best of your knowledge.

1 THE WITNESS: To the best of my knowledge, no.

2 BY MR. PEDIGO:

3 Q Now, let's go forward. You just told April 1997
4 was when Dave began to work full time at DLB Enterprises.

5 Is the first time that there was a question raised
6 about the application submitted in December 1996, was it by
7 the Net Wave application that was brought to your attention
8 in December 1997?

9 A Yes. Net Wave brought everything up.

10 Q And once the Net Wave application was brought
11 to your attention and other people's attention, including
12 the Sumpters, was the response of DLB Enterprises and
13 yourself to seek counsel to respond to the Net Wave
14 allegations?

15 A Definitely.

16 Q And has that been one of the projects that you
17 principally have been involved with since the end of 1997?

18 A Correct.

19 Q Mr. Brasher, I want to ask a couple of questions
20 from the show cause order. In the introductory paragraph of
21 that --

22 JUDGE STEINBERG: Why don't you look at Exhibit 1.
23 The show cause order or the response?

24 MR. PEDIGO: It's Judge's Exhibit 1?

25 JUDGE STEINBERG: No, the show cause order is

1 Hearing Exhibit 1.

2 MS. LANCASTER: You're talking about the hearing
3 designation order?

4 MR. PEDIGO: The hearing designation order.

5 MS. LANCASTER: That is not part of the record.

6 JUDGE STEINBERG: That is not in evidence. It
7 never is.

8 MR. PEDIGO: All right.

9 JUDGE STEINBERG: Didn't you say the show cause
10 order?

11 MR. PEDIGO: That's what --

12 JUDGE STEINBERG: You're talking about --

13 MR. PEDIGO: The reason we're here.

14 JUDGE STEINBERG: Okay. I was confusing your
15 question. I thought you were referring to the petition for
16 order to show cause filed by Net Wave.

17 MR. PEDIGO: No, Your Honor.

18 JUDGE STEINBERG: Okay.

19 MR. PEDIGO: The allegations that have brought us
20 here today in the show cause order that was published in
21 August 2000.

22 JUDGE STEINBERG: That's not evidence. That's not
23 evidence.

24 MR. PEDIGO: I understand.

25 JUDGE STEINBERG: And I don't have a clean copy.

1 MR. PEDIGO: All right.

2 BY MR. PEDIGO:

3 Q You've had a chance to review that document and
4 you know the allegations and from the show cause order
5 what's at stake here. Is that correct, Mr. Brasher?

6 A Yes, but as things progressed along and they moved
7 out of that area, that thing got shoved back. You know,
8 it's just something that Net Wave put together.

9 Q And, again, I'm not talking about the Net Wave
10 petition that they filed in November 1997. I'm talking
11 about the August 23, 2000 order to show cause and have the
12 hearing that we're having this week.

13 A What would that be?

14 JUDGE STEINBERG: It's not in the books. It's the
15 thing that set this whole matter for hearing.

16 THE WITNESS: All right, sir.

17 JUDGE STEINBERG: The Commission document that set
18 this case down for hearing.

19 THE WITNESS: All right, sir.

20 MR. PEDIGO: I just have a couple of questions
21 from some of the allegations in that.

22 BY MR. PEDIGO:

23 Q In general, are you aware that there is an
24 allegation that Ronald and Patricia Brasher with the
25 assistance of David Brasher, Diane Brasher and Carolyn Lutz

1 may have submitted fraudulent applications to the Commission
2 in the name of deceased persons as well as on behalf of
3 persons with no knowledge or involvement in any
4 applications? You're familiar that's one of the
5 allegations?

6 A I've heard that, yes.

7 Q And to the extent that that allegation says that
8 David Brasher, Diane Brasher or Carolyn Lutz for that matter
9 had any involvement in the submission of applications for a
10 deceased person or the Sumpters, is it your opinion that
11 factually they have had no assistance in the submission of
12 applications on behalf of those people?

13 A Diane and David had nothing to do with applying
14 for them or any connection with them whatsoever. Except
15 their own license. His own license.

16 Q Except for the two that David put in.

17 A Yes.

18 Q And the only other allegation in here, it states
19 that in 1999 it appeared David Brasher executed a management
20 agreement purportedly on behalf of O.C. Brasher. And, as
21 you've testified, that was the result of a clerical error
22 that had nothing to do with David Brasher. Is that correct?

23 A That's correct. That was either done in our
24 office or some place else.

25 Q I think this was Exhibit 19, April of 1999, it's

1 the first page of that document --

2 A What page was that?

3 Q Just go to the beginning of that.

4 The first page, it states that this is a response
5 on behalf of DLB Enterprises. Is that correct? I think
6 it's in the first --

7 A Yes.

8 Q And so the statement in there that Dave and Diane
9 Brasher were directors of DLB Enterprises, that's on page 2
10 of that letter.

11 A I have it.

12 Q And I think you testified, since Monday, anyway,
13 that there were no directors of DLB Enterprises, but if
14 I understand you right, you did make a distinction between
15 being a corporate officer and a director. Is that correct?

16 A That's correct. Yes.

17 Q Is this a document you worked on with your
18 attorneys, without really the involvement or review by Dave
19 or Diane Brasher?

20 A No, they reviewed it before I sent it in also.
21 They was with me whenever we did this because they had some
22 questions there that we had to answer. I don't know how
23 involved Diane was with it or David with it, but, yes. They
24 was familiar with it.

25 Q But is it clear now that in your mind that they

1 are not directors and never were directors?

2 A The last time I seen the articles of incorporation
3 was after they came in and went in there. I understand
4 directors is a director like a stockholder or something -- I
5 mean a stock board or something like that. Unless the
6 articles of incorporation says we're directors, they're not
7 directors from what this terminology is. I've had a little
8 schooling on what directors are now. Yes.

9 Q I think you testified that, for example, the radio
10 equipment that's at the Allen tower, it's behind a chain
11 link fence that has a combination lock on it. Is that
12 correct?

13 A Yes, sir.

14 Q Who owns that radio equipment?

15 A The radio equipment?

16 Q The actual equipment in there.

17 A You mean the repeaters?

18 Q Is that -- yes.

19 A The repeaters belong to Pat and I.

20 Q So if Norma Sumpster wanted her license in her
21 station turned off, would she have to instruct you to turn
22 it off? She doesn't own the actual repeater that is
23 programmed to handle her station, does she?

24 A That's correct.

25 Q She has to instruct you to do it. Is that

1 correct?

2 A She could or she could instruct someone else to do
3 it. Once it's been turned off, that repeater is just a
4 piece of equipment sitting there, just like a chair or
5 something.

6 Q But having her station loaded on that repeater
7 does not mean she owns the repeater or any portion of it.

8 A No. She only owns the license.

9 Q Since your retirement in November of 1998, you said
10 you've continued to go into the office but you've kept
11 control over some projects, the FCC matter being one of
12 them.

13 A That was being the major project. Yes, sir.

14 Q And I think you mentioned a DART project?

15 A We handed that over to David. I do pick up some
16 equipment and stuff like that on the way in and out from the
17 office.

18 Q As you finish out your projects, at a certain
19 point, do you foresee where you will no longer have any
20 projects and will not need to go into DLB Enterprises any
21 more?

22 A Since November, it's been pretty well that.

23 Q And, for example, once this FCC project is
24 complete, do you foresee that you will need to go into DLB
25 Enterprises on any kind of a periodic or weekly basis?

1 A Well, no, Even as a shareholder, you know, once
2 you make that, you don't like to step back in there because
3 it's too much distraction of what's already there.

4 Q I believe you testified earlier in response to
5 Mr. Romney's questions about some counsel you received on
6 how to actually do the applications that were submitted or
7 prepared in June of 1996.

8 Is it fair to say that if you had that to do again
9 you might choose to do it a different way?

10 MS. LANCASTER: Objection, Your Honor. Calls for
11 speculation.

12 JUDGE STEINBERG: Sustained.

13 BY MR. PEDIGO:

14 Q Have you learned a little more about the FCC
15 application process through the course of this proceeding?

16 A There's a word in front of it and it's yes. Yes.

17 JUDGE STEINBERG: Something with double hockey
18 sticks?

19 THE WITNESS: Yes, sir.

20 JUDGE STEINBERG: You do have hockey in Dallas
21 now, right?

22 MR. PEDIGO: Pardon me?

23 JUDGE STEINBERG: They do have hockey in Dallas?

24 MR. PEDIGO: We had the Stanley Cup,

25 MR. ROMNEY: Not right now. We did have it.

1 MR. PEDIGO: New Jersey took it away from us.

2 JUDGE STEINBERG: Okay. I just thought I heard
3 something about hockey in Dallas.

4 BY MR. PEDIGO:

5 Q I just want to make sure, then, that as result of
6 what you've had a chance to learn that -- Dave's been there
7 to see how there's some nuances to the FCC issues and do you
8 believe he's been in a position to learn some of the details
9 of the FCC processes?

10 A Knowing him, he's petrified of it right now.

11 Q Okay. So in the future, is it your opinion
12 that --

13 MS. LANCASTER: Objection. Calls for speculation.

14 JUDGE STEINBERG: Well, let the question be asked.

15 BY MR. PEDIGO:

16 Q That your son is a smart man and will learn from
17 whatever lessons there are to learn out of this and that DLB
18 Enterprises won't be back in this situation in the future?

19 MS. LANCASTER: Objection. Calls for speculation.

20 JUDGE STEINBERG: Okay.

21 MR. PEDIGO: Nothing further from this witness,
22 Your Honor.

23 JUDGE STEINBERG: Okay. Why don't we take a
24 break?

25 (A brief recess was taken.)

1 JUDGE STEINBERG: Back on the record.

2 Let me ask, Mr. Romney, was your quote-unquote
3 cross-examination also your sort of direct examination?

4 MR. ROMNEY: Yes, sir.

5 JUDGE STEINBERG: So that --

6 MR. ROMNEY: I was attempting to do everything
7 with this witness, with the exception of any rebuttal type
8 issues. Yes, sir.

9 JUDGE STEINBERG: Okay. So that after we finish
10 with Mr. Brasher the next time he'll come on, if he comes
11 on, will be as part of a rebuttal case.

12 MR. ROMNEY: Correct.

13 JUDGE STEINBERG: Okay. Good. So that
14 Ms. Lancaster is also doing redirect/cross.

15 MR. ROMNEY: That's correct.

16 JUDGE STEINBERG: Okay.

17 (Pause.)

18 MS. LANCASTER: Are you ready for me to start,
19 Your Honor?

20 JUDGE STEINBERG: Yes.

21 REDIRECT EXAMINATION

22 BY MS. LANCASTER:

23 Q Mr. Brasher, I believe in response to some
24 questions by Mr. Romney you talked about your T-band system.
25 Can you define T-band for us?

1 A 480 to 512 megahertz.

2 Q Okay. You also stated that you were in contact
3 with Scott Fennell, who at the time worked at PCIA in 1995,
4 I believe it was during the 1995 period that you stated you
5 had been in contact with Scott Fennell. Is that correct?

6 A That's correct.

7 Q And did you have several conversations with
8 Mr. Fennell?

9 A Yes. Yes, ma'am.

10 Q Did you have any documents that went back and
11 forth between you and Mr. Fennell?

12 A Yes, ma'am.

13 Q Do you have copies of any of those documents other
14 than the note that you have attached -- the telephone note,
15 I believe, in one of the exhibits that said it was a note
16 from Scott, a phone call from Scott Fennell?

17 A There's a letter also in there.

18 Q Okay. Anything else that you have not provided to
19 us? Did you have any documentation?

20 A No, ma'am.

21 Q To him or from him.

22 A Yes, ma'am. No, I have not. I'm sorry.

23 Q You stated that when you were doing research in
24 1995 on T-band frequencies you obtained listings of
25 companies that confirmed to you that it was okay to put

1 licenses in the names of other people that you actually were
2 going to use.

3 Do you recall that testimony? You started talking
4 about Action Radio, Pittencrieff or whatever the name was,
5 Madback Communications, Randy Angles Communications and
6 Champion Communications.

7 A Correct.

8 Q When you stated that you pulled up that
9 information, how did you pull it up?

10 A I requested John Black to pull it up for me.

11 Q So would it be accurate to say that John Black
12 supplied you with the information that you were referring
13 to?

14 A Correct.

15 Q You didn't physically pull up anything.

16 A I did not.

17 Q And you don't know of your own personal knowledge
18 where it came from.

19 A I'm sure on the heading of that document, I think
20 it come from ITS or -- there was a company at that time that
21 did a lot of accumulation of FCC records because they didn't
22 have an FCC bank, I don't believe, at that time.

23 JUDGE STEINBERG: You mean a data bank?

24 THE WITNESS: A data bank. And they had their
25 data information there and he pulled it up for me and then

1 sent me the documentation.

2 JUDGE STEINBERG: So let me see if I understand
3 this. You asked Mr. Black to gather this information for
4 you? Is that correct?

5 THE WITNESS: That's correct.

6 JUDGE STEINBERG: And then he gathered it and sent
7 you a package of the materials he gathered.

8 THE WITNESS: Yes, sir.

9 JUDGE STEINBERG: Did he summarize the materials
10 for you or did he just send you the raw materials and let
11 you look at them and draw whatever conclusions you wanted to
12 draw?

13 THE WITNESS: He sent me the raw materials and it
14 was up to me to review it.

15 JUDGE STEINBERG: Okay. Did you get all that?

16 MS. LANCASTER: No, sir. I'm sorry.

17 JUDGE STEINBERG: Mr. Black sent Mr. Brasher the
18 raw materials that Mr. Black generated and Mr. Brasher
19 reviewed the raw materials. There wasn't a report that
20 Mr. Black gave to him that said these guys have these
21 licenses under these names or something like that.

22 BY MS. LANCASTER:

23 Q Is that the same raw materials that you were
24 referring to when you stated that you got a list of 107
25 frequencies from Mr. Black? Is this the same list?

1 A It's the same type of list. I did not get a list
2 of 107 frequencies from John Black. I got a list of the
3 frequencies that were assigned and then knowing how many
4 frequencies there are, like 200 frequencies, in a series of
5 frequencies, deducted what was issued and then that come up
6 with 109 unissued frequency license positions.

7 Q Okay. My question -- maybe I can clarify it. The
8 list that you got from Mr. Black that you relied upon to
9 determine that other companies were using licenses in the
10 names of friends or relatives or other people or principals
11 of those companies and which contained the names of Madback
12 Communications, Randy Angles, Champion Communications, the
13 list that contained that information, that Mr. Romney asked
14 you about, is that the same list that you talked about
15 earlier in determining what frequencies were available?

16 A No.

17 Q Okay. So those were two separate requests to
18 Mr. Black.

19 A Yes, ma'am.

20 Q I believe you were asked about Exhibit 57 and
21 I would ask that you turn to page 6 of Exhibit 57. Have you
22 found it?

23 A Yes, ma'am. I'm sorry.

24 Q Exhibit 57 is entitled Schedule F, Antenna
25 Structure Data at the top of the page. Is that correct?

1 A Correct.

2 Q And Mr. Romney referred you to --

3 JUDGE STEINBERG: Line B.

4 BY MS. LANCASTER:

5 Q Line B of the first box that is entitled Status
6 and Identifying Information.

7 A Yes, ma'am.

8 Q Do you recall that?

9 A Yes, ma'am.

10 Q That simply is identifying the tower that is
11 proposed to be used with this application, isn't it?

12 A Yes, ma'am.

13 Q And do you have any connection to Bell
14 Communications which is listed on line A?

15 A Bell Communications at that time was a tower
16 owner.

17 Q And did they also have repeaters at that tower?

18 A I would not know that because they were in the
19 tower business only at that time. I mean, they were in the
20 tower business.

21 Q Did you have any connection with Bell
22 Communications?

23 A I paid them the rent, DLB paid them the rent for
24 our equipment to be there.

25 Q Okay. They were the owner of this particular

1 tower?

2 A Yes, ma'am.

3 Q And they are listed on this form because they were
4 the owners of station KAE1496, aren't they?

5 A That and also they have a call sign there at a
6 station they have there.

7 Q But that is the reason they're listed on this
8 form.

9 A Yes, ma'am.

10 Q And the reason that Metroplex Two Way is listed on
11 this form is because this tower was already the location of
12 your station whose call sign was WIL990. Is that correct?

13 A That's incorrect.

14 Q Is this where you were proposing to put WIL990?

15 A No.

16 (Pause.)

17 Q You didn't own the tower. Is that correct?

18 A That's correct.

19 Q So why was Metroplex Two Way listed under column 5
20 which is the space for the owner of the tower?

21 A I would think we need to ask John Black that.

22 Q Okay. You don't know.

23 A I do not know. No.

24 Q So you don't really know why Metroplex was listed
25 on this form at all, do you?

1 A No, I do not.

2 Q But as far as any personal knowledge you have, it
3 doesn't prove any connection between Metroplex and Carolyn
4 Lutz, does it?

5 A It's got Carolyn Lutz at the top. Someone will
6 associate that with or someone has.

7 Q The listing here doesn't mean that Metroplex was
8 connected to Carolyn Lutz, though. As far as you know.

9 A I do not know.

10 Q Okay. I have no further questions on that.
11 Exhibit RB/PB-3, which was one of the exhibits that was
12 offered?

13 A Yes, ma'am.

14 Q Which is the construction letter dated 11/17/97,
15 which you testified that you signed O.C. Brasher est. R.D.
16 Brasher?

17 A Yes, ma'am.

18 Q Is it your testimony that by submitting this
19 particular form to the FCC that constituted notice for all
20 time to the FCC that Ronald Brasher was deceased?

21 JUDGE STEINBERG: O.C.

22 BY MS. LANCASTER:

23 Q O.C. Brasher was deceased? Sorry. You're still
24 with us. I know.

25 A I'm 67 and ongoing. Does this constitute that

1 this is official notice from there on out?

2 Q Is that your testimony, that you intended this to
3 be official notice to the FCC that O.C. Brasher was
4 deceased?

5 A No.

6 (Pause.)

7 JUDGE STEINBERG: While we're on RB/PB-3, you
8 wrote down on the last line O.C. Brasher est. R.D. Brasher.
9 What does the est. stand for?

10 THE WITNESS: I assumed that would be the estate.

11 JUDGE STEINBERG: Okay. That's what your intent
12 was?

13 THE WITNESS: Yes, sir. The intent. Yes, sir.

14 (Pause.)

15 BY MS. LANCASTER:

16 Q Mr. Brasher, you stated that you have no current
17 plans to file more FCC applications?

18 A That's correct.

19 Q You're retired, aren't you?

20 A That's correct.

21 Q You're out of the radio business?

22 A I'm retired and I have no intention of being in
23 the radio business. That's correct.

24 Q But your plans could change next week if you
25 decided that you wanted them to, couldn't they?

1 A If I decided I wanted to? I would say that's very
2 doubtful. You could say they could. Anything could happen,
3 you know. But to answer you, I have no desire to do that.

4 Q Okay. You stated that all of these systems that
5 are operated by Metroplex and DLB are booked. Is every
6 system operated by Metroplex and DLB fully loaded?

7 A Yes, ma'am.

8 Q So you've turned away business?

9 A At times. Yes, ma'am.

10 Q When is the last time you recall turning away
11 business?

12 A I'd say before I left, in '98, before that.

13 Q Okay. And it's your testimony, I believe, that if
14 the licenses were taken away from DLB, were revoked by DLB,
15 that there would be nowhere for all of DLB's customers to
16 go?

17 A I testified to that.

18 Q Okay. So the radio business in the Dallas area is
19 not competitive? Is that your testimony?

20 A No. What it is is less and less the two-way
21 radio business -- in the last three months that I know
22 of, three companies have got out of the business who were
23 good, honest, trustworthy players in the two-way radio
24 business.

25 MS. LANCASTER: Move to strike, Your Honor, as